

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

ROBERT BURD

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/04/2012

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

ROBERT BURD	:	CIVIL ACTION
	:	
v.	:	
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

06/04/12  
Date

Craig Thor Kimmel  
Attorney-at-law

Plaintiffs, Robert Burd  
Attorney for

215-540-8888  
Telephone

877-788-2864  
FAX Number

kimmel@creditlaw.com  
E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 12 Devon Dr., Egg Harbor Township, NJ 08234

Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

I, Craig Thor Kimmel (Check Appropriate Category)

- Counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
  - ☐ Relief other than monetary damages is sought.

DATE: 06/04/12

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06/04/12

Attorney-at-Law

57100

Attorney I.D.#

## PLAINTIFF'S COMPLAINT

1 08234.

2 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

3 7. Also, Plaintiff is a person granted a cause of action under the FDCPA. See 15  
4 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22,  
5 2000).

6 8. Defendant is a national debt collection company with its corporate headquarters  
7 located at 507 Prudential Road, Horsham, Pennsylvania 19044.

8 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6),  
9 and repeatedly contacted Plaintiff in an attempt to collect a debt.

10 10. Defendant acted through its agents, employees, officers, members, directors,  
11 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

12 **FACTUAL ALLEGATIONS**

13 11. At all relevant times, Defendant was attempting to collect an alleged consumer  
14 debt.

15 12. The alleged debt at issue, a medical bill, arose out of transactions, which were  
16 primarily for personal, family, or household purposes.

17 13. Beginning in or around December 2011, and continuing through May 2012,  
18 Plaintiff received numerous collection calls on his home telephone from Defendant seeking  
19 payment of an alleged debt.

20 14. Plaintiff regularly received collection calls from the following telephone  
21 numbers: (888) 831-6994 and (800) 709- 8625, which the undersigned confirmed are telephone  
22 numbers belonging to Defendant.  
23  
24  
25

1           15.     Also, Plaintiff knew that it was Defendant calling him because he has answered  
2 the telephone calls and spoken with Defendant, and in those instances where he did not answer  
3 the telephone calls, he received voicemail messages from Defendant.

4           16.     On average, Defendant called twice a day, causing Plaintiff to receive more than  
5 ten (10) collection calls a week.

6           17.     Defendant alleged that Plaintiff owed \$129.00 for a medical debt.

7           18.     Plaintiff, however, disputed owing the alleged debt, explaining to Defendant that  
8 this bill had been paid in 2003.

9           19.     At the time Plaintiff incurred this medical bill, his health insurance required him  
10 to pay 20% and it would pay 80%.

11           20.     Plaintiff paid the 20% of the \$129.00 medical bill.

12           21.     Plaintiff's health insurance company paid the remaining 80% of the \$129.00  
13 medical bill.

14           22.     Plaintiff confirmed with his health insurance company that the bill was paid in  
15 2003.

16           23.     Defendant, however, claimed to Plaintiff that it did not believe him and  
17 demanded payment of the alleged debt.

18           24.     Defendant failed to investigate the information that Plaintiff provided about the  
19 debt having been paid.

20           25.     Further, in its conversations with Plaintiff, Defendant's collectors, two of whom  
21 identified themselves to Plaintiff as "Russell Smith" and "Nicole," threatened to take legal  
22 action against Plaintiff and to have his wages garnished if he did not pay the alleged debt.  
23  
24  
25

1           26.     At the time Defendant threatened to garnish Plaintiff's wages and to take legal  
2 action against him, Defendant could not do so, as the debt had been paid.

3           27.     Moreover, at the time it made these threats, Defendant did not intend to garnish  
4 Plaintiff's wages and/or pursue legal action against him.

5           28.     Defendant's actions in attempting to collect a debt were harassing, abusive, and  
6 annoying.

7                   **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

8                                   **COUNT I**

9           29.     Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.  
10 §§1692d, 1692d(2), and 1692d(5).  
11

12                   a.     A debt collector violates §1692d of the FDCPA by engaging in conduct  
13                         the natural consequence of which is to harass, oppress, or abuse any  
14                         person in connection with the collection of a debt.

15                   b.     A debt collector violates §1692d of the FDCPA by engaging in conduct  
16                         the natural consequence of which is to harass, oppress, or abuse any  
17                         person in connection with the collection of a debt.

18                   c.     Here, Defendant violated §§1692d and 1692d(5) by continuously  
19                         calling Plaintiff's home, on an average of two (2) times a day, with the  
20                         intent to harass or abuse Plaintiff.  
21

22                                   **COUNT II**

23           30.     Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.  
24 §§1692e, 1692e(2)(A), 1692e(4), and 1692e(5).

25                   a.     A debt collector violates §1692e of the FDCPA by using false, deceptive

1 or misleading representations or means in connection with the collection  
2 of any debt.

3 b. A debt collector violates §1692e(2)(A) of the FDCPA by misrepresenting  
4 the character, amount or status of the debt.

5 c. A debt collector violates §1692e(4) of the FDCPA by representing or  
6 implicating that nonpayment of any debt will result I the arrest or  
7 imprisonment of any person or the seizure, garnishment, attachment, or  
8 sale of any property or wages of any person unless such action is lawful  
9 and the debt collector or creditor intends to take such action.

10 d. A debt collector violates §1692e(5) of the FDCPA by threatening to take  
11 any action that cannot legally be taken or that is not intended to be taken.

12 e. Here, Defendant violated §§1692e and 1692e(2)(A) of the FDCPA by  
13 claiming to Plaintiff that he owed \$129.00 for a medical debt, when the  
14 debt had been paid in 2003.

15 f. Also, Defendant violated §§1692e and 1692e(4) of the FDCPA by  
16 threatening to garnish Plaintiff's wages for nonpayment of a debt, when it  
17 had no intent to take such action and could not take such action since the  
18 debt had already been paid.

19 g. Finally, Defendant violated §§1692e and 1692e(5) of the FDCPA by  
20 threatening to take legal action against Plaintiff for nonpayment of a debt,  
21 when it had no intent to take such action and could not take such action  
22 since the debt had already been paid.  
23  
24  
25



**COUNT III**

31. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§1692f and 1692f(1).

- a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable means to collect or attempt to collect any debt.
- b. A debt collector violates §1692f(1) of the FDCPA by collecting an amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.
- c. Here, Defendant violated §§1692f and 1692f(1) of the FDCPA engaging in other unfair and unconscionable debt collection practices, including attempting to collect an amount from Plaintiff which he did not owe.

WHEREFORE, Plaintiff, ROBERT BURD, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

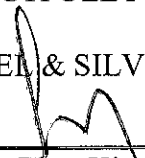
**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, ROBERT BURD, demands a jury trial in this case.

1  
2  
3 DATED: 06/04/12  
4

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

5 By:   
6 Craig Thor Kimmel  
7 Attorney ID # 57100  
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